

STATEMENT OF THE HONORABLE TONY A DEBRUM  
BEFORE THE HOUSE COMMITTEE ON FOREIGN AFFAIRS  
SUBCOMMITTEE ON ASIA, THE PACIFIC AND THE GLOBAL ENVIRONMENT  
U.S. HOUSE OF REPRESENTATIVES

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SUBMITTED BY THE HONORABLE TONY A DEBUM  
SENATOR, REPUBLIC OF THE MARSHALL ISLANDS  
ELECTED REPRESENTATIVE OF THE PEOPLE OF KWAJALEIN ATOLL  
TO THE NITIJELA, (PARLIAMENT) OF THE MARSHALL ISLANDS

Mr. Chairman,

I thank you for this special opportunity. I am here as a Senator from Kwajalein Atoll in the National Parliament of the Marshall Islands, the Nitijela. With me from Kwajalein are Iroij Senator Michael Kabua, Iroij Senator Christopher Loeak, Iroij Rod Nakamura, Senator Jeban Riklon, Alap Fredley Mawilong, and Alap Irumne Bondrik. We appear before you today representing the four Traditional Leaders of Kwajalein: Iroijlaplap Imata Kabua, Iroijlaplap Anjua Loeak, Iroijlaplap Nelu, and Leroij Likwor Litokwa, all their elders, and all the people who belong to Kwajalein. This all inclusive leadership and grass roots delegation is unique in this aspect but is also reflective of our fervent desire to find a solution to the continuing disagreement which threatens to undermine the long and enduring relationship between our two countries.

The story of Kwajalein is not new to the Honorable Members of this Committee. Kwajalein continues to play a significant role in America's quest for superiority in military technology as well as in lending support to the many diverse efforts of the United States to maintain international peace and security. Since 1944, Kwajalein has been an integral part of America's defense, from its early days of serving as a naval air base, through its role as support base for the testing of Nuclear Weapons in the Marshall Islands from 1946-1958, to its present status as America's foremost testing facility for its missile defense programs. The Marshall Islands are a proud and reliable friend of the United States, and Kwajalein is an indispensable component of that friendship.

But Kwajalein has also earned a darker side in this union. While constantly being reminded of its importance to relationship, Kwajalein has had to bear, like the nuclear detonation sites in our country, the brunt of American military presence in the freely associated states. The social conditions of Ebeye, where the displaced population of Kwajalein Atoll now reside, have been the stuff of critical press for decades. We have won the title of being the slum of the Pacific, the suicide capital of Micronesia, the US Army's cheap labor camp, and the even more unfriendly misnomers associated with diseases like polio, sexually transmitted diseases, cholera, and at present, drug resistant tuberculosis. For several decades we have been at the target end of missile shots from Vandenberg Air Force Base as well as other launch sites in the American arsenal, and have witnessed the occasional mismarks which have resulted in damages to our lands and waters. We have been subject to blatant discrimination in our own country in areas of employment, education, health care and even transportation both in the air and on the sea. But we have not wavered in our support for the continued close relationship between our people and the American people.

We are criticized as being selfish for refusing to abandon our homelands for the greater good of the country and for the satisfaction of its international obligations. But any member of this committee and anyone who has ever visited Kwajalein can attest to the fact that the living conditions in Ebeye and other labor support residential islands in the Kwajalein Atoll, are universally unacceptable in this day and age.

This substandard way of life can and does instill a sense of despair and helplessness which cannot be conducive to a long, productive and mutually beneficial relationship. Anyone who has seen Ebeye as it is today will find it unbelievable that responsible leaders can agree to continue this intolerable status quo for another 70 years. That is the dilemma of Kwajalein. While there is overwhelming willingness to meet the land needs of our American friends, the demands of this sacrifice far outweigh our responsibilities to our future generations.

When, in 2003, the Government of the Marshall Islands entered into agreements now known in aggregate as the Compact of Free Association, as amended, or more commonly Compact 2, a new Military and Operating Rights Agreement (MUORA) was concluded which neglected to address conclusively the issue of a prerequisite Land Use Agreement (LUA) for Kwajalein beyond 2016. There are no public lands in the Marshall Islands and all land required for public use must be acquired through leases and other instruments of conveyance. Many factors contributed to the rejection of the MUORA and the RMI's lease proposal.

Firstly, the values represented in the 2003 MUORA for Kwajalein land reflected a significant decrease from the 1986 land lease. Without judging the fairness of the original Land Use Agreement, in real dollars, the 1986 rental payments translated into 19.1 million per year in 2003. Therefore, acceptance of the 15 million annually which was offered in 2003 would mean accepting less for the same land. Further, the MUORA contemplated less than full inflation adjustment for the payments thus the people of Kwajalein were being asked to enter an agreement where their land would continue to devalue annually for 70 years. Such an arrangement was to them patently unfair and unjust.

Secondly, in the negotiations leading up to the acceptance of Compact 2, full faith and credit was removed from the agreement so that there were no credible assurances that payments in the agreement would withstand the test of a 70 year time period. The RMI has neither the resources nor the authority to guarantee these payments, and if the US was not going to do the same, then the people of Kwajalein were being put at future risk pertaining to payments due them under the agreement.

Additionally, of major concern to the people of Kwajalein are the ongoing activities of the military there and the environmental damage these activities have on the land and surrounding seas. Based on other military use experiences in the Marshall Islands, to say we have good reason to be concerned would be an understatement.

The detonation of 67 nuclear bombs, euphemistically called devices, in our islands, caused permanent destruction of homelands. Compensation for severe bodily injury as well as devastating land damages have been refused, even where proper adjudication and reliable assessments were made. The current attempts to force repatriation of Rongelap Atoll is a scandal that underscores this continuing concern.

The people of Kwajalein had asked during the negotiations that provisions be made for the constant monitoring of land damage and that, where applicable, remediation for damages immediately undertaken. We requested this provision to ensure that corrective action would be taken during the course of the lease and not at the end of the period when some damages would not be repairable. This concern was also rejected by the negotiators for the RMI and the United States Government leaving the people of Kwajalein without effective and enforceable protection. We are aware of current severe contamination of land and water but no funds are available to address these issues today. For example, the fish in the harbor of the once pristine lagoon anchorage at Kwajalein Island has now been declared unfit for human consumption due to severe heavy metal contamination. Depleted uranium from incoming warheads, impact damage, as well as perchlorate contamination from rocket launches are a continuing source of environmental degradation which must be considered in any meaningful environmental regime.

The funds set aside for Ebeye special needs under the Compact would have gone a long way to help ease the suffering of the inhabitants there but instead of using these to supplement other resources for education and health, these funds have been used as a substitute for normal governmental and Compact appropriations for these public services in Kwajalein. As a result, the people of Kwajalein have had to forego their proper, prorated share of RMI General Fund revenues and regular Compact funds and dedicate the entire Ebeye Special Needs (MUORA) funding to provide service constitutionally mandated to be the responsibility of the RMI government. But as members of the Committee know, the RMI does not have full authority over Compact funds but must submit to the authority of the Joint Economic Management and Financial Accountability Committee (JEMFAC) which disburses these funds.

Because of this, any hope of meaningful development must be addressed by what, under the MUORA, are called Compact Impact Funds, approximately 2 million dollars per annum. But yet another Compact related issue precludes the meaningful use of these funds for development. Under the 1986 Land Use Agreement, these funds were to be used by a development authority established by the people of Kwajalein for that purpose. However, in recent times, the United States government has taken the position that Kwajalein cannot establish a development authority because for some strange reason, such an Authority would be incompatible with the Financial Management Agreement under the Compact, and also that these funds cannot be used for administrative costs. We have tried to obtain an explanation as to these inconsistencies but have not received satisfactory responses from the American authorities in Majuro.

We understood, Mr. Chairman, the reluctance of the previous administration to revisit the Compact issue at least, as regards to Kwajalein. After all, they claim, they negotiated in good faith, and gained a valid agreement accordingly. However, no one seems to want to admit that the defect in the amended Compact, namely that a prerequisite land use agreement had not been reached, rendered it, at best a legally insufficient commitment, and at worst a direct violation of the Constitution of the RMI which basically acknowledges that the Government has no land to give. Rather than acknowledging this error, the past administration of the United States, and two different administrations of the government of the

RMI have claimed they had a legally binding agreement between the countries and that they would hold the people of Kwajalein hostage to that agreement. If concluding a land use agreement was strictly an internal matter for the RMI then Section 104 (B) (5) of the Compact Act would not have been inserted by Congress. This provision contemplates the failure to reach an agreement and requires the President to report to Congress "on the intentions of the United States with respect to the use of Kwajalein," in such eventuality.

There was an unsuccessful effort to incentivize the people of Kwajalein to sign a new Land Use Agreement over their very clear and proclaimed objections. An escrow account was established into which would be paid about 4 million dollars a year, the basic difference between Compact 1 land use rentals and the Compact 2 proposed rate. This fund has now reached approximately 25 million dollars and has been often cited as reason enough for the people of Kwajalein to back down on their objections, surrender, and sign a new Land Use Agreement. Our elders have time and again warned that this fund would serve to divide and conquer, to entice some to abandon the firmly held position that the proposed Land Use Agreement under Compact 2 is unfair and unjust. This situation is reminiscent of the infamous 1964 lease negotiations for Kwajalein where a mailbag containing \$750,000 in small bills was dumped in the Base Chapel as incentive for the gathered elders to sign that document. That 99 year lease was subsequently discarded as coerced and patently unfair and replaced by the current Land Use Agreement. Mr. Chairman, our stand has always been that we must not agree to something that we view as fundamentally unfair in order to gain immediate financial relief and gratification at the expense of our children and grandchildren, the life of our land. We too have witnessed the tragedy of our nuclear affected communities and cannot in good conscience offer our consent to an arrangement that will in time result in similar tragic abandonment of commitment and breaking of promises.

Mr. Chairman, for the past few days our small Kwajalein delegation has, through the good offices of our President Jurelang Zedekaia and the RMI Embassy in Washington, made the rounds of this great city visiting friends and making new ones in both Congress and the Administration. We have been no less diligent in our efforts to seek solutions to this remarkable impasse. We came quite uncertain of the outcome but intent on letting the new administration here in America know of the widely held position of the people of Kwajalein, namely, that an extension of our relationship is essential to our survival. But the alternative could not be dismissed, for our forefathers and their generations were able to survive and thrive on these small unimposing islands through the sweat of their brows, and the natural bonds uniting them, their land and the sea which protected and sustained them. But, Mr. Chairman, we believe that if there ever was a time when we can in fact break this Kwajalein deadlock, this is it.

Both the United States and the Marshall Islands have undergone changes in their governments in accordance with their respective constitutional processes. One of our more productive meetings during this visit to Washington was in the Department of State with Assistant Secretary Kurt Campbell and the officials of the Bureau of Pacific and East Asian Affairs. We are most grateful that our meeting with Secretary Campbell has opened doors and presented opportunities which we are confident will serve to

pave the way for the execution of a new Land Use Agreement for Kwajalein. This will not be an easy task, but we are prepared to meet those challenges and work hard to put an LUA in place by October.

Please let me explain very briefly some of the specifics of this pathway we have explored with Secretary Campbell:

First, the Compact of Free Association contains provisions for specific loans and grants to be made to the RMI for the needs of Kwajalein infrastructure and development based on a plan devised for that purpose. (Sec. 103 5). While this section is contained in both Compact 1 and Compact 2, it has never been tapped as far as we know, for development purposes ever since the Compact came into effect. There is no known procedure or process for triggering this form of assistance but this may very well form the basis upon which infrastructural financing shortfalls for Kwajalein can be obtained. Housing and public facilities especially for the displaced people of Kwajalein are of immediate and critical need.

Secondly, shifts within the amounts set aside in the MUORA can be made to accommodate basic infrastructure requirements and related shortfalls while allowing other Compact funds to finance the requirements of recurring accounts in health and education. Additionally, non-Compact funds may be available to address these critical needs. An agreement between the two governments can put this into effect without any amendment to the Compact.

Three, restoring full faith and credit to Kwajalein funding under the Compact would provide tenable guarantees that these funds will be made available regardless of changes in Governments in the future, and restore flexibility in the undertaking of major development programs for the atoll. Most importantly it will remove the uncertainties and anxieties which undermine confidence in an agreement of such a long duration.

Mr. Chairman, we can also explore further the possibility of an integrated power and water system for the atoll that would allow for the capitalization of new utility and infrastructure schemes, such as sustainable solar, wind, and ocean thermal energy conversion programs. There are resources and special funds already in place which can be tapped for this exercise. This will necessitate expansion of eligibility so that Kwajalein and the RMI can utilize these opportunities to modernize the basic infrastructure for economic and social stability. Power purchase agreements between the U. S. Army and the civilian public utilities in Kwajalein can result in the long term private funding of state of the art electrical and water facilities. This can also open possibilities for meaningful development of export products and earn sustainable economic development for the RMI as well as for its neighboring Pacific States.

Roads and bridges are needed to alleviate the public inconvenience of water ferries, the operation of which will be prohibitively expensive. If this relationship is to last 70 years, then the integration of the community is needed to correct the disparities which prevent closer and more harmonious relationship between the military, the scientific non indigenous residents, and the people of Kwajalein. Communities throughout the 70 mile atoll must have well built and maintained docks, warehouses, and airport facilities in order to enhance the limited living areas within the outer fringes of the atoll. Schools and medical facilities must also be provided.

We think that these ideas can be the basis upon which we can resolve this impasse, Mr. Chairman, and based on our very productive meeting with Secretary Kurt Campbell, Deputy Assistant Secretary Frankie Reed, U.S Ambassador to the Marshall Islands, Martha Campbell, and key staff and advisors of these distinguished officials, we believe our counterparts in the United States Government are similarly convinced. The RMI and the people of Kwajalein alone cannot accomplish these important development programs without the cooperation and support of our most important partner in development, the United States of America. We believe Mr. Campbell's approach to be the most sensible way to reach agreement that will be acceptable to all parties, the United States, the RMI, and the people of Kwajalein.

What are the alternatives to this fresh approach to resolve the dilemma that has been Kwajalein for decades? Without changes described above, one option that is available to the RMI is to initiate eminent domain proceedings and condemn our homeland under the provisions of our Constitution. But in the Marshall Islands, and especially in Kwajalein, this may be near to impossible.

Mr. Chairman, during the process of writing and debating our Constitution, and with the expert advice of such stellar legal minds as Professor Quentin Baxter and Mrs. Allison Baxter of New Zealand, as well as America's own Professor Lawrence Tribe of Harvard University, the people of the Marshall Islands sought to define the governmental privilege of eminent domain in such a manner that it would be almost impossible to exercise. This was by done quite by design. For over a hundred years, our country had been under the colonial rule of one nation or another and the practice of taking land from our people was always perceived with suspicion and in some cases outright repugnance. The destruction of our islands from the nuclear testing program remained fresh in the minds of our delegates and as a result, the Constitutional provisions for the exercise of eminent domain are quite restrictive and narrowly defined. Basically, the definition of public use versus economic use must be irrefutably established, and secondly, a clear and definitive assessment of value must be completed. But yet another requirement must be met. That is, land substantively similar to that which is condemned must be provided to substitute for that which is taken, and ceded to the dispossessed. As hard as we have thought this over, we fail to find land which matches the size of Kwajalein, the largest atoll in the world, to replace it should it ever be taken successfully in eminent domain proceedings. It is also generally agreed that the value which would be assigned to Kwajalein in new land condemnation proceedings will most likely exceed the value assigned in 1986. Keeping in mind that land use rentals proposed under Compact 2 are of less value in real dollars

than those in 1986, one can only conclude that eminent domain proceedings will be an exercise in futility and clearly one the Government of the Marshall Islands cannot afford without substantial financial subsidy from outside sources. The cost of time delays has not been taken into account.

What then is the remaining option? In spite of all good faith, and the desire of the people of Kwajalein to be accommodating to our best friend and closest ally in the world, closure of the base and withdrawal of military forces from Kwajalein would seem to be the only choice left. It takes a minimum of seven years to restore, replant and resettle atoll lands which have not had the benefit of human care for decades. If 2016 marks the end of the Land Use Agreement, then preparations for that option must begin now. Careful disposition and relocation of property must necessarily be part of a civilized, well organized plan. Mr. Chairman, we do not wish to sound impudent in making that observation for we truly have tried hard to resolve our differences. But where resolution cannot be found, then as friends, we should do what is right.

Mr. Chairman, our elders sent us to Washington this week to share these troublesome facts with you but also to allow for a final attempt at finding a solution to the impasse of Kwajalein. We have, since we arrived, tried to carry out that mandate. We are convinced that it is now or never. Good men and women, negotiating in good faith for the mutual benefit of the countries we represent, can find solutions to this. But stonewalling is not one of those solutions. Adherence to the principles that led us to this standoff in the first place will not result in an honorable agreement. In the Marshall Islands land is scarce and precious. The land use agreement proposed thus far is unjust and unbalanced, and cannot withstand the test of time. And seventy years is very long time.

Our hopes now rest in the spirit of cooperation and understanding we were able to derive from our discussions with Asst. Secretary Kurt Campbell and other high officials of your government. Our President was able to meet with Secretary of State Hillary Clinton, and other distinguished members of the Obama Administration as well as our good friends in Congress. We believe we have found a way to conclude a lasting agreement and will strive to accomplish that at the earliest possible time. And with your support and guidance, yes, we can.

Mr. Chairman, we thank you for this special opportunity and we submit with this statement a number of documents we hope will help our friends in Congress understand our predicament. The solution can be found when and only when the Government of the United States, the Government of the Marshall Islands, and the people of Kwajalein bring to bear all that is in their sense of fairness and wisdom to resolve this matter once and for all. Together.



May God bless the United States of America. May God bless your friends, the people of Kwajalein, and the Republic of the Marshall Islands.

Thank you, Mr. Chairman.